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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,870

07/31/2007

Kun'ichi Miyazawa

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7590

03/22/2011

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EXAMINER

MCCRACKEN, DANIEL

ART UNIT

PAPER NUMBER

1736

NOTIFICATION DATE

DELIVERY MODE

03/22/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/593,870

Applicant(s)

MIYAZAWA ET AL.

Examiner

DANIEL C. MCCracken

Art Unit

1736

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 10-12, 14 and 16-28.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Daniel C. McCracken/
Primary Examiner, Art Unit 1793

Continuation of 3. NOTE: The features amended from the Specification are new issues which require further search and consideration under 35 USC 101-103, 112..

Continuation of 11. does NOT place the application in condition for allowance because:

The remarks do not argue the rejections, rather present arguments directed towards various claims. Insofar as this was understood, the following is offered:

I. With respect to the rejection of Claims 10-12, 14, 16-24 under 35 U.S.C. 103(a) as being unpatentable over US 2002/0192143 to Miyazawa, et al. in view of Fagan, et al., Metal Complexes of Buckminsterfullerene (C60), Acc. Chem. Res. 1992; 25: 134-142, the traversal is on the grounds that the combination does not teach the "hollow structural portion" and the amorphous structure. (Remarks of 3/10/2011 at 6) The arguments directed towards the amorphous structure are not persuasive as this is not required by Claim 11. As to the hollow structural portion, Miyazawa teaches hollow portions. (Miyazawa 5: [0132] et seq.) This was not understood. As to Claim 22, reciting an "amorphous structure," the distinction being argued is not understood. What does "amorphous" mean in the context of fullerene needles, and how is this different from "polycrystals" taught by Miyazawa? (Miyazawa 2: [0023]). Note also the same processes (liquid-liquid interface, etc.) employed. What makes one produce "amorphous" and the other "non-amorphous" needles?

II. With respect to the rejection of Claims 25-28 under 35 U.S.C. 103(a) as being unpatentable over US 2002/0192143 to Miyazawa, et al. and Fagan, et al., Metal Complexes of Buckminsterfullerene (C60), Acc. Chem. Res. 1992; 25: 134-142 as applied to claims 17-18 above, and further in view of US 7,291,318 to Sakurabayashi, et al., the remarks appear to argue newly claimed features that are not entered.